



GARY R. HERBERT
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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

January 26, 2011

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 7326

Jeff Sagers
Southwest Stone
2421 West 350 North
Hurricane, Utah 84737

Subject: Proposed Assessment for State Cessation Order No. MC-2010-17-06, Southwest Stone, Dove Creek Pass, S/003/0052, Box Elder County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Sagers:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector Lynn Kunzler on October 13, 2010. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$1320. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this cessation order has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case the assessment conference will be scheduled immediately following the review of the fact of the violation.

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Jeff Sagers
S/003/0052
January 26, 2011

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by February 24, 2011). Please remit payment to the Division c/o Vicki Bailey.

Sincerely,



Thomas Munson
Assessment Officer

TM:eb

Enclosure: Proposed assessment worksheet

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Southwest Stone PERMIT # S/003/0052
CO # MC-2010-17-06

ASSESSMENT DATE January 24, 2011

ASSESSMENT OFFICER Thomas Munson

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

(1pt for NOV 5pts for CO)

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? A
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *Given the fact the operator did not respond to the Division directives or showed no diligence in trying to correct the problem, the points were assigned mid range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 7

PROVIDE AN EXPLANATION OF POINTS:

*** *Extended damage is loss of grazing and wildlife use on five acres. It is not considered high priority range land. Points assigned at mid point of lower half of points range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25 pts)

This section does not apply.

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 17

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or

lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligent by failure to respond.

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

*** *With two Division directives that were apparently ignored, operator shows high negligence. Points assigned at top of negligent level.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

Violation has not been abated. Good faith points can not be awarded.

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	

X	Extended Compliance	0
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(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT?

ASSIGN GOOD FAITH POINTS **0**

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF CO# MC-2010-17-06

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	17
III.	TOTAL NEGLIGENCE POINTS	15
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	32

TOTAL ASSESSED FINE **\$ 1320.**